THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11961 of 2005

Dated:25.07.2007

Between:

Sri V.Umamaheswara Rao, S/o.V.Venkata Subba Rao.

…Petitioner

and

The Mandal Revenue Officer,
Penamaluru Mandal,
Krishna District.

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11961 of 2005

ORDER:

The petitioner herein is aggrieved by notice in Form I issued to Vennam Venkata Subba Rao (father of the petitioner) under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short 'the Rules'), calling upon the recipient of notice to submit explanation as to why the land should not be resumed for contravention of the provisions of Section 3(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act').

It is the case of the petitioner that his father purchased the subject land in an extent of Ac.0.36 cents in Survey No.65/1 situated at Yenamalakuduru Village of Penamaluru Mandal in Krishna District under registered sale deed bearing Document No.3723 of 1993 from one
Sri M.Bhaskara Rao, son-in-law of late Seshumamba, who was the original owner and was in possession since 1947. It is not an assigned land, and therefore, notice issued under the Act and the Rules is not proper. The notice is also assailed on the ground that the petitioner's father died in August 2003, and the notice issued to dead person is not valid.

This Court while admitting the Writ Petition on 08.06.2005 passed interim orders in W.P.M.P.No.15226 of 2005 staying further proceedings. Now the respondent has moved W.V.M.P.No.3284 of

2005 for vacating the interim order. At this stage itself, the Writ Petition is heard finally, and is being disposed of.

This Court has heard the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (Assignment). It is brought to the notice of this Court that having realized that the notice was issued to a dead person, the Mandal Revenue Officer has issued another notice to the petitioner and his mother on 20.08.2005, and that the matter is still pending with the Mandal Revenue Officer.

While denying the various allegations in the writ affidavit, in the counter affidavit it is averred as under.

> …It is submitted that as the assigned land alienated to a person is above property line, a notice in Rc.A.155/2005, dated 17.05.2005 in Form-1, under rule 3 of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 prepared in the name of Sri Vennam Venkata Subba Rao and said notice was acknowledged by Smt.Vennam Suguna Wife of Sri.Vennam Venkata Subba Rao on 17.5.2005, after some time, we came to know that the said Subbarao who purchased assigned land had expired. Meanwhile orders of resumption was passed on 3.6.2005 and the land was resumed on the same day to the Government custody. After coming to know about the death of the said Vennam Venkata Subba Rao, notice in Form-1 dated 20.8.2005 was issued to the legal heirs of the said Subba Rao who is the petitioner herein. Even the mother of the petitioner is also served with Form-1 notice to show cause why the assigned lands should not be resumed for violation of conditions i.e., having purchased the assigned lands. The original assignee died issueless and the land has to be resumed to Government for public purpose. After the death of the original assignee some third person claiming to be the legal heir of the original assignee has sold the Government assigned land to the father of the petitioner. The said sale is illegal and nonest in the eye of law. The assigned land is heritable and not alienable. Hence the possession of the petitioner over the Government assigned land is illegal. Hence show cause notices in Form-1 are issued to the legal representatives of late V.Subba Rao. Hence the petitioner can participate in the enquiry.

The petitioner has not filed any reply affidavit. Therefore, the petitioner may approach the Mandal Revenue Officer, Penamaluru Mandal, and submit explanation. It shall also be open to the Mandal Revenue Officer to issue fresh notice appropriately under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007, which repealed 1977 Rules.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

25.07.2007
vs